

SUPREME COURT OF APPEAL OF SOUTH AFRICA

PRESS RELEASE

19 March 2009

STATUS: Immediate

Melamed & Hurwitz Inc v Goldberg (686/2007) [2009] ZASCA 15 (19 March 2009)

Please note that the media summary is intended for the benefit of the media and does not form part of the judgment of the Supreme Court of Appeal

The Supreme Court of Appeal today held that an attorney had overreached his client in charging her a fee of R450 000 for advising her in financial settlement negotiations with her husband prior to their divorce.

The attorney had kept few records of consultations or phone calls with his client, and was unable to say how much time he had spent on the matter. He had agreed the fee with her when she was in a state of euphoria, having obtained a settlement financially very favourable to her, without giving her the opportunity to consider the fee, and despite the fact that he knew she was uncomfortable with the amount, regarding it as 'steep'.

The court ordered that the agreement between the parties for payment of the fee was, in the circumstances, void, but that the attorney was entitled to submit his claim for fees to the Law Society of the Northern Provinces for it to assess an appropriate fee. That assessment must in turn be referred back to the Johannesburg High Court to order that the fee so assessed be paid, and to make an appropriate costs order.

The Supreme Court of Appeal dismissed the appeal against the high court's order, but changed the nature of the relief granted.
